

OPINION ISSUED SEPTEMBER 2, 2016

IN THE UNITED STATES COURT OF APPEALS  
FOR THE NINTH CIRCUIT

HELPING HAND TOOLS and ROB  
SIMPSON,

Petitioners,

v.

UNITED STATES ENVIRONMENTAL  
PROTECTION AGENCY, et al.,

Respondents,

SIERRA PACIFIC INDUSTRIES,

Intervenor.

No. 14-72553

CENTER FOR BIOLOGICAL  
DIVERSITY,

Petitioner,

v.

UNITED STATES ENVIRONMENTAL  
PROTECTION AGENCY, et al.,

Respondents,

SIERRA PACIFIC INDUSTRIES,

Intervenor.

No. 14-72602

**EPA’S UNOPPOSED MOTION FOR EXTENSION OF TIME**

Pursuant to Ninth Circuit Rule 31-2.2(b), Respondents United States Environmental Protection Agency, et al., (collectively “EPA”) hereby move for a thirty (30) day extension until December 14, 2016, of the deadline to file responses to Petitioner Center for Biological Diversity’s (the “Center”) petition for panel hearing and/or modification of the opinion. This motion is accompanied by the declaration of Dustin J. Maghamfar, counsel for EPA, supporting the showing of diligence and substantial need. This motion is timely filed.

The undersigned counsel has conferred with respective counsel for the Center and for Intervenor Sierra Pacific Industries. Counsel for the Center represented that the Center does not oppose the requested extension, and counsel for the Intervenor represented that Sierra Pacific Industries consents to the requested extension.

WHEREFORE, EPA respectfully requests that the Court extend the deadline to file responses to the petition for panel hearing to December 14, 2016.

Respectfully submitted,

JOHN C. CRUDEN  
Assistant Attorney General  
Environment and Natural Resources Division

Dated: October 27, 2016

s/ Dustin J. Maghamfar  
DUSTIN J. MAGHAMFAR  
United States Department of Justice  
Environmental Defense Section

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Attorneys for Respondents

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**DECLARATION OF DUSTIN J. MAGHAMFAR IN SUPPORT OF  
RESPONDENTS' MOTION FOR EXTENSION OF TIME**

The following declaration is submitted in support of the Motion for Extension of Time filed by Respondents United States Environmental Protection Agency, et al. (collectively “EPA”). This declaration supports EPA’s showing of diligence and substantial need pursuant to Ninth Circuit Rule 31-2.2(b).

I, Dustin J. Maghamfar, do hereby declare:

1. I am an attorney employed by the Environment & Natural Resources Division of the United States Department of Justice. I am the attorney of record on behalf of EPA in the above-captioned case.

2. Pursuant to the Court’s order dated October 21, 2016, the deadline to respond to Petitioner Center for Biological Diversity’s (the “Center”) petition for panel rehearing and/or modification of the opinion is November 14, 2016.<sup>1</sup>

3. EPA requests a thirty (30) day extension of the deadline to respond, until December 14, 2016.

4. This extension is necessary for EPA (1) to prepare its response to the petition for panel rehearing and (2) to allow sufficient time to complete interagency and management review of said response by the appropriate officials at EPA and the Department of Justice. The response requires the input of EPA agency counsel, program and technical staff, and management at both the EPA

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<sup>1</sup> The 21 days to respond allowed by the Court ends on Friday, November 11, 2016, a federal holiday. The deadline is therefore Monday, November 14, 2016.

Regional Office and EPA Headquarters. The response must then undergo four levels of detailed review by management at the Department of Justice, including review by the Assistant Attorney General of the Environment and Natural Resources Division.

5. EPA has and will proceed diligently in preparing its response. However, I, as undersigned counsel for EPA, am out of the office on a combination of personal leave and work travel from October 31 – November 9. Upon returning on November 10, I must also draft a reply brief in another matter, prepare for two expert depositions, report for jury duty on November 15 (which cannot be deferred), and prepare for and attend mediation on November 21. In addition, the Thanksgiving holiday is on November 24.

6. EPA and DOJ have exercised and will exercise diligence in preparing EPA's response, and the response will be filed within the time requested.

7. I have contacted counsel for Petitioner Center for Biological Diversity and Intervenor-Respondent Sierra Pacific Industries, and am informed that both parties do not object to EPA's motion for extension of time.

8. Designated transcripts are not involved in this case.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct. Executed this 27th day of October, 2016, at Washington, District of Columbia.

s/ Dustin J. Maghamfar  
DUSTIN J. MAGHAMFAR

**CERTIFICATE OF SERVICE**

I hereby certify that I electronically filed the foregoing EPA's Unopposed Motion for Extension of Time and Declaration in Support with the Clerk of the Court for the United States Court of Appeals for the Ninth Circuit by using the appellate CM/ECF system on October 27, 2016. I certify that all participants in the case are registered CM/ECF users and that service will be accomplished by the appellate CM/ECF system.

s/Dustin J. Maghamfar

DUSTIN J. MAGHAMFAR